



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

5720

Ser DNS36-RNP/12U2108847

May 2, 2012

Mr. Michael Morisy
MuckRock News
DEPT MR 1111
P.O. Box 55819

Dear Mr. Morisy:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT CASE DON2012F020711

This is an additional response to your February 20, 2012 Freedom of Information Act (FOIA) request in which you seek any reports, reviews, official talking points or documents regarding the granting of permission by the Department of the Navy to the filmmakers in the movie ACT OF VALOR.

As you know, your request was received by this office on February 27, 2012, and assigned case number DON 2012F020711.

Your request indicates that you are seeking a fee waiver. Before we grant a fee waiver, we must determine whether your request meets the twofold objectives for fee waivers established by the Department of Defense; that is, whether disclosure of the information is in the public interest because it:

- (1) Is likely to contribute significantly to public understanding of the operations or activities of the Government; and
- (2) Is not primarily in the commercial interest of the requester (32 CFR § 286.28(d)).

Before we make a decision on your request for a fee waiver we ask, in accordance with the Department of Justice FOIA Guide and Overview, that you provide information in response to the following questions so that we can determine if granting the waiver or a reduction in fees is in the public interest.

- (1) Explain how the subject matter of each item of the request involves issues that will significantly contribute to the public's understanding of this agency's operations or activities. For example, is this information of wide public interest and your disclosure will be unique in enhancing public knowledge. Does the information confirm or clarify data which has been released previously, how will disclosure of these documents increase the level of public understanding, and is the information already publicly available?
- (2) Explain how the records you are seeking will be meaningfully informative in relation to the subject matter of the request and how the disclosure of the records will contribute to the understanding of the public at large or a reasonably large audience or persons interested in the subject. Your identity, vocation, qualification, and expertise regarding the requested information may be relevant factors. However, you must demonstrate how you plan to disclose the information. Also, the dissemination of information must be to the general public or a reasonably broad audience. We are unable to discern and you have not provided information to us regarding the contribution to the public at large of this specific subject area. (Dissemination to a wide audience is not merely posting the documents on a website, but providing an informative analysis of the information.)
- (3) Explain how disclosure will contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons.
- (4) Explain how disclosure will contribute significantly to public understanding of government operations or activities. Public understanding must be enhanced by disclosure to a significant extent (see Sierra Club Legal Def. Fund. No. 93-35383, slip op. at 4).

Before we make a final determination regarding your fee waiver request, we are asking that you provide justification for each item in your request in accordance with the questions above and our regulations. Once we have received your response, we

will make a final determination regarding your request for a fee waiver and process your request. If you do not provide adequate justification to be placed in the news media category and responds to this letter within 20 working days from the date of this letter, we will place you in the "other" category. As an "other" requester, you are entitled to up to two hours of search time and the reproduction of up to 100 pages of documents without charge. The information you requested could potentially involve a time-consuming search of more than two hours that could generate a large amount of documents exceeding 100 pages.

Furthermore, we are currently processing your request for contractual documents between the Navy and Bandito Brothers and will provide a final decision in the most prompt manner possible.

Navy policy requires that we provide Presidential Executive Order 12600 notice to contractors before releasing any contractual information. Therefore, we notified the producer, Bandito Brothers, to review their contractual information and identify any portions that they consider to be proprietary. We anticipate a final response on your request within the next 60 - 90 days.

Pursuant to your email of April 18, 2012, you do not agree to limit the scope of your request to accept "clearly releasable" documents as your final response from this office but would be willing to receive them in the interim until the contractual documents are fully processed with a final determination.

If, ultimately, any information is denied under the FOIA in our final decision letter, we will inform you of your right to file an appeal of the final decision at that time.

Meanwhile, you have the right to file an appeal of our delay in issuing a substantive response. Attach a copy of this letter to your appeal and mark the appeal and the envelope, "Freedom of Information Act Appeal." Mail the original to:

Department of the Navy,
Office of the General Counsel
Attn: FOIA APPEALS
1000 Navy Pentagon, Room 5A532
Washington, DC 20350-1000.

Please mail a copy of your appeal to:

Department of the Navy
Chief of Naval Operations
2000 Navy Pentagon DNS-36
Washington, DC 20350-2000

If you have any questions regarding the status or processing of your request, please contact the DON FOIA Requester Service Center on (202) 685-0412.

Sincerely,

for M.P. Shaw

ROBIN PATTERSON
Head, DON PA/FOIA Policy Office